

## INSPECTION PROCEDURES FOR HAZCOM

HAZCOM 30 CFR Part 47	BACKGROUND & REGULATORY INTENT	ENFORCEMENT PROCEDURES
<b>Subpart A–Purpose, Scope, Applicability, And Initial Miner Training</b>		
<b>47.1 Purpose of a HazCom standard; applicability</b>	<p>The goal of HazCom is to reduce injuries and illnesses related to chemicals in the mining industry.</p> <p>HazCom is an information and training standard and not a risk-based health standard for measuring exposures, requiring controls, or providing protective equipment.</p> <p>HazCom is performance-oriented and allows mine operators wide flexibility in developing a HazCom program suited for mines.</p> <p>The mere presence of a hazardous chemical in the workplace does not trigger coverage under the standard. There must be actual or potential exposure to a miner.</p> <p>The number of miners employed on September 23, 2002 determines whether HazCom is in effect for the operation. The employment levels for independent contractors are considered separately from the mine operator.</p>	<i>There are no citable provisions in this section.</i>
<b>47.2 Operators and chemicals covered; initial miner training</b>	The standard “applies to any operator, including mine operator and independent contractors, producing or using a hazardous chemical to which a miner can be exposed under normal conditions of use or in a foreseeable emergency.”	<i>Violations of 47.2(b), initial miner training, are to be cited under Section 104(g) of the Mine Act. Likewise, when miners fail to receive required HazCom training under parts 46 and 48,</i>

	<p>foreseeable emergency.”</p> <p>“Foreseeable” is intended to be interpreted broadly as “anticipated” or “expected” eventually. It is not intended to include highly remote or speculative events.</p> <p>This initial training must be completed before September 23, 2002 for mines employing six or more miners and before March 21, 2003 for mines employing five miners or less.</p> <p>Subsequent HazCom training, after the effective date, is to be conducted under Parts 46 and 48. HazCom does not exempt EPA-hazardous waste from training.</p> <p>Initial training records are not required. However, Parts 46 and 48 contain recordkeeping requirements.</p> <p>The success of a HazCom program is best measured when a miner is able to correctly identify chemical hazards he/she is exposed to, how he/she is to protect one’s self from those hazards, and the contents of the mine’s HazCom program.</p>	<p><i>HazCom training under parts 46 and 48, violations are to be cited under 104(g). A 104(g) order would be appropriate if:</i></p> <ul style="list-style-type: none"> <li><i>there are any hazardous chemical(s) present in the miner’s work area. (List some examples of hazardous chemicals in the miner’s work area in the body of the order);</i></li> <li><i>the miner(s) is exposed to these hazardous chemical(s); and</i></li> <li><i>the miner(s) was not trained about the physical and health hazards of chemicals in his or her work area, the protective measures that must be taken against these hazards, and the contents of the mine’s HazCom program. (List the name of the miner(s) missing the required training in Item 15 “Area or Equipment.” Use a Mine Citation/Order Continuation Form if more room is required to list all the miners.)</i></li> </ul> <p><i>The following factors concern whether the violation should be designated as “non-S&amp;S,” or “S&amp;S”:</i></p> <ul style="list-style-type: none"> <li><i>The number of miners missing the required training.</i></li> <li><i>The severity of the chemical hazard the miner(s) is exposed to in his or her work area.</i></li> <li><i>The training element(s) the miner(s) is lacking (for example: the physical and health hazards of the chemical in the miner’s work area, the protective measures,</i></li> </ul>
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		<p><i>and the content of the mine's HazCom program).</i></p> <ul style="list-style-type: none"> <li>• <i>Any relevant training the miner(s) has already received.</i></li> </ul> <p><i>Additionally, the following factors should be considered when determining whether a violation should be designated as an unwarrantable failure:</i></p> <ul style="list-style-type: none"> <li>• <i>The amount of time the miner(s) was not trained since the training was required.</i></li> <li>• <i>Whether the hazard created is particularly serious warranting increased attention from the mine operator to prevent or correct it.</i></li> </ul> <p><i>Training violations involving recordkeeping or compensation are to be cited under 104(a) of the Mine Act. Compliance Specialists should consult the HazCom PIL for more guidance on the enforcement of the HazCom standard. Questions regarding the issuance of 104(g) citations related to HazCom training violations not addressed in this table, or questions which may present more complicated issues on any aspect of HazCom, should be directed to the Chiefs of Health for Metal/Nonmetal or Coal for resolution, as appropriate.</i></p> <p><i>The enforcement guidance provided in this table is consistent with agency policy on the issuance of citations as non-S&amp;S," "S&amp;S," and unwarrantable failure. Compliance Specialists should also consult MSHA's handbook on</i></p>
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		<i>Citation and Order Writing for additional guidance on agency policy on "non-S&amp;S," "S&amp;S," and unwarrantable failure violations.</i>
<b>Subpart B – Definitions</b>		
<b>47.11 Definitions of terms used in this part</b>	A table of definitions is provided to explain terms used in HazCom. Refer to Table 47.11	<i>There are no citable provisions in this section.</i>
<b>Subpart C – Hazard Determination</b>		
<b>47.21 Identifying hazardous chemicals</b>	<p>The operator must identify the chemicals at the mine and determine if they present a physical or health hazard to miners.</p> <p>HazCom provisions apply to hazardous chemicals whether or not they are covered under other MSHA standards.</p> <p>For chemicals brought to the mine, operators may rely on the evaluation performed by the chemical's manufacturer or supplier and as stated on the MSDS. If the label or MSDS indicates a hazard, consider it hazardous.</p> <p>Operators may also choose to evaluate hazardous chemicals according to guidance in (b) and (c) below.</p>	<i>Issue one citation under 47.21 for failure to conduct a hazard determination and list the names of the chemicals.</i>
<b>(a) Chemicals brought to the mine</b>	Operators do not need to modify the MSDSs from a chemical manufacturer or supplier, but they must learn what hazards the chemical can present to miners.	<i>Issue one citation under 47.21 for failure to conduct a hazard determination and list the names of the chemicals.</i>

<p><b>(b) Chemical produced at the mine</b></p>	<p>Operators are to review available scientific evidence to determine if the chemical is hazardous. The chemical is hazardous if it is a physical or health hazard.</p> <p>Physical hazard determinations are based on available evidence or testing.</p> <p>A chemical is considered a health hazard if it is listed by any one of five recognized authorities or sources as outlined in Table 47.21. Operators can also rely on other manufacturers' MSDSs.</p>	<p><i>Issue one citation under 47.21 for failure to conduct a hazard determination and list the names of the chemicals.</i></p>
<p><b>(c) Mixture produced at the mine</b></p>	<p>This is similar to (b) except that a mixture must be treated as hazardous under HazCom when at least 1% (by weight or volume) of the mixture's constituents are known to present a health or physical hazard other than cancer.</p> <p>Mixtures must be treated as carcinogens if they contain at least 0.1% of a known carcinogen.</p> <p>If tested as a whole, the results of the testing can be used to determine its hazards.</p> <p>If not tested as a whole, the operator may assume that the mixture presents the same hazards as its components <i>if there is evidence that the component could be released from the mixture in a concentration that could present a health risk to miners.</i></p>	<p><i>Issue one citation under 47.21 for failure to conduct a hazard determination and list the names of the chemicals.</i></p>
<p><b>Subpart D – HazCom Program</b></p>		

<p><b>47.31 Requirement for a HazCom program</b></p>	<p>If a hazardous chemical is used or produced at the mine, compliance with the HazCom standard requires a written program that is developed and implemented. Implemented means that the program is updated and maintained. The HazCom program must also be shared with other on-site operators whose miners can be affected.</p> <p>HazCom allows operator flexibility in designing the HazCom program to take into account specific circumstances at the mine.</p>	<p><i>Issue one citation under 47.31 if the operator has not developed, implemented and maintained a HazCom program. List some examples of the hazards (i.e., explosive (ANFO), combustible (diesel fuel), compressed gas (acetylene, oxygen), flammable (gasoline), health hazard (welding rods, solvents, antifreeze), etc.) of the chemicals present at the mine in the body of the citation.</i></p> <p><i>Issue one citation under 47.31 if it is determined, during and after the HazCom inspection, that numerous deficiencies indicate an overall systemic failure of the HazCom program and its implementation. List the overall deficiencies from a program perspective. Compliance Specialists must consider the number of miners exposed to the hazardous chemical(s), as well as the severity of the chemical hazard(s) in determining whether the violation should be designated as "non-S&amp;S," "S&amp;S," or an unwarrantable failure. Additionally, Compliance Specialists should consult MSHA's handbook on Citation and Order Writing to ensure consistency in the application of Agency policy on "non-S&amp;S," "S&amp;S," and unwarrantable failure violations.</i></p> <p><i>Refer to the HazCom PIL.</i></p>
<p><b>47.32 HazCom program contents</b></p>	<p>There is no limit to the size or detail of the written program over and above the minimum. Some large mines may develop extensive written programs to ensure that every miner receives the necessary information.</p> <p>Each HazCom program must include the following:</p>	<p><i>Issue one citation under 47.32 if parts of the HazCom program contents are not <u>described</u>. List what is missing.</i></p>

	<ul style="list-style-type: none"> <li>• How this part is put into practice at the mine through the use of hazard determination, labels and other forms of warning, MSDSs, and miner training.</li> <li>• A list or other record identifying all hazardous chemicals known to be at the mine must include a chemical identity that permits cross-referencing between a list, a chemical's label and its MSDS and be compiled for the whole mine or by individual work areas.</li> </ul> <p>In addition, each HazCom program must describe the methods used for multiple operator(s) to inform each other on the hazardous chemicals their miners can be exposed to.</p>	
<b>Subpart E - Container Labels and Other Forms of Warning</b>		
<b>47.41 Requirement for container labels</b>	<p>A label is the immediate warning about a chemical's most serious hazard. Containers of hazardous chemicals must be marked, tagged, or labeled with the identity of the hazardous chemical and appropriate hazard warning.</p> <p>The operator, who has accepted the label in good faith and did not prepare the label, does not have to re-label unless the label is missing, unreadable, defaced, labeled in accordance with other federal standards, or the manufacturer sends a revised label. The missing label must be replaced immediately.</p> <p>For containers that remain on-site, labels do not need to contain the name, address and phone number of the responsible party.</p> <p>Hazardous waste regulated by the EPA is exempt from MSHA labeling standards.</p> <p>Containers of raw materials, while they are on mine property, are exempt from HazCom labeling. However, hazardous chemicals added to raw materials must be labeled for its hazardous ingredient. New compounds formed by the addition of hazardous chemicals must be labeled.</p>	<i>Issue one citation under 47.41 if the containers were not properly labeled and labels maintained. List what is missing.</i>

	<p>Labels must be updated with significant hazard information within 3 months of becoming aware of it.</p> <p>The operator is not responsible for inaccurate information on a label prepared by the chemical manufacturer or supplier.</p>	
<b>47.42 Label Contents</b>	<p>The labeling requirements are performance-oriented and offer operators flexibility. Labels made with markers or paint are acceptable as long as they identify the hazardous chemical and its hazards and are maintained in legible condition.</p> <p>Every chemical container must be labeled in English. Additional languages are permissible. Manufacturer's labels satisfy HazCom labeling requirements.</p> <p>A label made by the operator must:</p> <ul style="list-style-type: none"> <li>• include the name of the chemical as it appears on the MSDS and the mine's chemical inventory list;</li> <li>• describes the health and physical hazards;</li> <li>• be legible; and</li> <li>• be written in English.</li> </ul> <p>The label must use a chemical name that permits cross-referencing between the list of hazardous chemicals and its MSDS.</p>	<p><i>Issue one citation under 47.42 if the label content does not comply with the required elements. This only applies to labels that the operator makes. List what is missing or inadequate.</i></p>



<p><b>47.43 Label Alternatives</b></p> <p><i>(applies only to individual, stationary process containers)</i></p>	<p>Storage tanks, bunkers, pipelines normally cannot be labeled in the same way as small portable containers. The mine operator is encouraged to use label alternatives (i.e. placards, batch tickets, or other means, etc.) to communicate hazards in these situations.</p> <p>The alternative must identify the container to which it applies and must be readily available throughout each workshift to miners in the work area.</p> <p>HazCom does not require the labeling of pipes or piping systems.</p> <p>Label alternatives for containers that remain on mine property do not require contact information for a responsible party.</p>	<p><i>Issue one citation under 47.43 if label alternatives do not contain the proper information and are not readily available. List what is missing or inadequate.</i></p>
<p><b>47.44 Temporary, portable containers</b></p>	<p>A temporary, portable container is typically used for only one shift or one application and is empty by the end of the shift.</p> <p>HazCom allows the operator a choice of compliance methods:</p> <ul style="list-style-type: none"> <li>• The operator does not have to be label the container when the miner knows the identity, hazards and protective measures for the chemical in the container if the container is left empty at the end of the shift;</li> <li>• Otherwise, the container must be labeled with at least the common name of its contents if you do not leave it empty at the end of the shift.</li> </ul>	<p><i>Issue one citation under 47.44. Describe the violations.</i></p>
	<p><b>Subpart F – Material Data Sheets (MSDS)</b></p>	
<p><b>47.51 Requirement for an MSDS</b></p>	<p>HazCom requires the mine operator to have and to maintain a file of MSDSs for every hazardous chemical used or produced on the mine site. The system may be hard-copy, fax-on-demand or electronic.</p>	<p><i>Issue one citation under 47.51 and list all missing MSDSs if they are not available or maintained.</i></p>

	<p>Operators must have an MSDS for each hazardous chemical to which a miner can be exposed under normal conditions of use or in a foreseeable emergency at the mine.</p> <p>Before a miner can be exposed to a new chemical hazard, the operator must:</p> <ul style="list-style-type: none"> <li>• inform the miner about the chemical's hazards,</li> <li>• instruct the miner on hazard recognition, and</li> <li>• instruct on protective measures.</li> </ul> <p>The operator does not need to have the MSDS in hand <b>before using</b> the chemical, however, the operator is required to have the MSDS readily available in the event of an emergency.</p> <p>MSDSs that are maintained must be current and updated.</p> <p>MSDSs prepared by an operator for his/her products must be accurate, current and revised within 3 months of becoming aware of significant new information.</p>	
<p><b>47.52 MSDS content</b></p> <p><i>(applies only to chemicals produced at the mine)</i></p>	<p>MSHA's HazCom standard requires the MSDS contain at least ten (10) information sections but no format is specified. Refer to Table 47.52.</p> <p>A manufacturer's MSDS is normally satisfactory. However, an operator, who has accepted an manufacturer's MSDS in good faith and did not prepare the MSDS, is not responsible for the accuracy of an MSDS received with a hazardous chemical shipment.</p> <p>HazCom allows:</p> <ul style="list-style-type: none"> <li>• a single MSDS for a class or family of chemicals with similar hazards or for mixtures with similar hazards and contents (e.g. organic solvents, lubricants) in which the ingredients are the same but their percentages vary from mixture to mixture;</li> <li>• a single MSDS to address the hazards of the process rather than individual hazardous chemicals.</li> </ul>	<p><i>Issue one citation under 47.52 if the MSDS does not comply with the required elements. List what is missing or inadequate.</i></p>

<b>47.53 Alternatives for Hazardous Waste</b>	HazCom does not require a MSDS for hazardous waste. However, you are required to keep whatever information you have that describes the hazardous waste components, its hazards or protective measures and to provide miner access to this information.	<i>Issue one citation under 47.53 if hazardous waste alternatives are not properly implemented.</i>
<b>47.54 Availability of an MSDS</b>	<p>Mine operators must keep MSDSs in the work areas where chemicals are used or produced or an alternative location provided that the MSDS is readily available to miners in an emergency.</p> <p>Paper copies, faxes, Internet access, or commercial databases are permitted as long as the operator makes MSDSs readily available to miners.</p>	<i>Issue one citation under 47.54 if MSDSs are not readily available and maintained. List all the chemicals for which an MSDS is not available.</i>
<b>47.55 Retaining an MSDS</b>	<p>The MSDS for a given chemical must be kept on file as long as the chemical is used at the mine. Employees must be notified 3 months before removing the MSDS of a discontinued chemical.</p> <p>The operator has flexibility to use any method to notify the miner (postings, safety meeting, newsletter, etc) and does not have to be written.</p>	<i>Issue one citation under 47.55 if MSDSs have been discarded without notification of miners 3 months prior to disposal.</i>
	<b>Subpart G - Reserved</b>	
	No provisions are in this section.	<i>There are no citable provisions in this section.</i>
<b>Subpart H - Making HazCom Information Available</b>		
<b>47. 71 Access to HazCom Materials</b>	Upon request, the mine operator has to provide access to all HazCom materials required by the miners and designated representatives,	<i>Issue one citation under 47.71 if miners state their request has not been fulfilled unless the</i>

	<p>MSHA and NIOSH personnel except when restricted by trade secret protections.</p> <p>HazCom materials include the list of hazardous chemicals, MSDSs, labeling information, and the written program. Operators can provide a copy of the records for the miner to examine or to retain.</p>	<i>information requested is related to a trade secret. List each instance reported by miners.</i>
<b>47.72 Cost for copies</b>	HazCom information, such as the written program, MSDSs and copies of labels, is to be provided at no charge to affected miners upon request. Multiple copies are to be provided at a reasonable cost per copy.	<i>Issue one citation under 47.72 if HazCom information has not been provided free of charge. List each instance reported by miners.</i>
<b>47.73 Providing labels and MSDSs to customers</b>	A customer has the right-to-know about the hazards of the product they are purchasing. The operator must provide, upon request, a hazardous chemical label or copy of the label information and the MSDS. The labels for customers must contain accurate information as well as the name, address of a responsible party.	<i>Issue one citation under 47.73 if the operator has not provided customers with labels and MSDS upon request. List each instance reported.</i>
	<b>Subpart I – Trade Secret Hazardous Chemical</b>	
<b>47.81 Provisions for withholding trade secrets</b>	<p>The “trade secrets” provisions balance protecting miners’ health and the proprietary interest in protecting business.</p> <p>In general, mine operators have limited protection for secret proprietary ingredients. They may protect information about trade secret processes and percentages in the mixture.</p>	<i>Do not cite any provision under Subpart I without referring the potential violation to the Chief of Health, Metal and Nonmetal or Coal.</i>
<b>47.82 Disclosure of information to MSHA</b> <b>47.83 Disclosure in a</b>	When disclosure is needed to protect a miner’s health, the mine operator must provide trade secret chemical identities in emergency and specified non-emergencies.	<i>Do not cite any provision under Subpart I without referring the potential violation to the Chief of Health, Metal and Nonmetal or Coal.</i>

<b>medical emergency</b>  <b>47.84 Non-emergency disclosure</b>	Properties, safe use, and the safety and health effects of trade secret chemicals must always be disclosed.	
<b>47.85 Confidentiality agreement and remedies</b>  <b>47.86 Denial of a written request for disclosure</b>  <b>47.87 Review of Denial</b>	There are provisions for confidentiality agreements, denying disclosure, appeals and redress of grievances.	<i>Do not cite any provision under Subpart I without referring the potential violation to the Chief of Health, Metal and Nonmetal or Coal.</i>
	<p style="text-align: center;"><b>Subpart J – Exemptions</b></p>	
<b>47.91 Exemptions from the HazCom standard</b>	<p>There are two types of exemptions:</p> <ul style="list-style-type: none"> <li>• exemption from HazCom; and</li> <li>• exemption from labeling requirements.</li> </ul> <p>Exemption from labeling does not mean that the hazardous chemical is exempt from HazCom.</p> <p>Exemption from the HazCom rule means that the mine operator is not responsible to provide hazard training, MSDSs, and warning labels under HazCom. Refer to table 47.91.</p> <p>The following categories of items are exempt from HazCom requirements:</p> <ul style="list-style-type: none"> <li>• articles (i.e., tires, piping, ropes),</li> </ul>	<i>Issue one citation under 47.21 (Identifying Hazardous Chemicals) if the hazardous chemical product is not exempted under HazCom. List products on the citation.</i>

	<ul style="list-style-type: none"> <li>• naturally occurring chemical hazards (i.e., poison oak, microbes, molds),</li> <li>• items purchased for personal use or consumption (i.e., hand cleaner, soft drinks, tobacco products, candy bars),</li> <li>• radiation devices (i.e., microwave ovens, lasers, gamma sources)</li> <li>• untreated wood products (i.e., lumber for cribbing, plywood sheets).</li> </ul> <p>Refer to Table 47.91.</p> <p>Examples of applications outside normal use might include using household cleaners or consumer products to clean engine parts in a shop. The application of excessive heat (burning), physical force (cutting, grinding, crushing, sawing, planing) or other modifications may produce hazards outside the conditions of normal use. HazCom applies in those situations. Refer to the Compliance Guide for more examples.</p> <p>Exemption from HazCom means the mine operator is not responsible to provide hazard training, MSDS and warning labels to comply with Part 47.</p>	
<b>47.92 Exemptions from labeling</b>	<p>Generally items exempt from labeling under HazCom are covered by labeling requirements under other Federal statutes and enforced through the FDA, EPA, NRC, etc. Refer to Table 47.92.</p> <p>As a rule of thumb, if a hazardous chemical is brought to the mine, it should already be labeled and we accept that labeling for compliance with HazCom.</p>	<p><i>Issue one citation under 47.41 (Requirements for Container Labels) if the hazardous chemical product is not exempted under HazCom labeling. List products on the citation.</i></p>